

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ALVENO MILBERRY, )  
Plaintiff, ) Civil Action No. 05 - 1158  
v. )  
P.B.P.P. MS. BROWN, DOC )  
CHARLES J. WHITE, )  
Defendants. )

**ORDER**

The above captioned case was transferred from the United States Court for Middle District of Pennsylvania on August 19, 2005. It was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation (doc. no. 19), filed on January 11, 2007, recommended that Plaintiff's Complaint (doc. no. 3) be dismissed in accordance with the Prison Litigation Reform Act, 28 U.S.C. § 1915 (e)(2)(B)(ii) and/or 28 U.S.C. § 1915A for failure to state a claim upon which relief can be granted. The Plaintiff was served at the State Correctional Institution at Houtzdale and was advised he were allowed ten (10) days from the date of service to file written objections to the report and recommendation. No objections have been filed. After review of the pleadings and

documents in the case, together with the report and recommendation, the following order is entered:

**AND NOW**, this 5<sup>th</sup> day of February, 2007;

**IT IS HEREBY ORDERED** that Plaintiff's Complaint (doc. no. 3) is **DISMISSED** in accordance with the Prison Litigation Reform Act, 28 U.S.C. § 1915 (e) (2) (B) (ii) and/or 28 U.S.C. § 1915A for failure to state a claim upon which relief can be granted.

**IT IS FURTHER ORDERED** that the Report and Recommendation (doc. no. 19) of Magistrate Judge Lenihan, dated January 11, 2007, is adopted as the opinion of the court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

By the Court:

s/ Terrence F. McVerry  
United States District Judge

cc: Lisa Pupo Lenihan  
United States Magistrate Judge

Alveno A. Milberry  
FL-9326  
SCI Houtzdale  
P.O. Box 1000  
Houtzdale, PA 16698-1000